IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 26478 of 2007(B)

PETITIONERS:

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1. M.NARAYANIKUTTY,
   PRINCIPAL(ON LEAVE),
   COCHIN COLLEGE, KOCHI.

2. P.SURESH PAI, SENIOR SUPERINTENDENT,
   COCHIN COLLEGE, KOCHI.

BY ADV. SRI.KRB.KAIMAL (SR.)
SRI.ANIL K.NAIR
SRI.B.UNNIKRISHNA KAIMAL
SRI.V.MADHUSUDHANAN
SRI.PRAMJI PAUL VAZHAPPILLY

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
   ADDITIONAL CHIEF SECRETARY TO GOVERNMENT OF
   KERALA, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE MANAGER,
   COCHIN COLLEGE, KOCHI.

BY SRI. A. JAYASANKAR
GOVERNMENT PLEADER SRI. A.J. VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.26478 OF 2007

DATED THIS THE 5th DAY OF SEPTEMBER, 2007

JUDGMENT

Petitioners are employees of a private aided College. They are aggrieved by Ext.P3 letter of the 1st respondent requesting the 2nd respondent to suspend the petitioners on account of the registration of a criminal case by Vigilance and Anti-Corruption Bureau. The petitioners challenge Ext.P3 relying on Section 64 of the Mahatma Gandhi University Act, 1985. According to the petitioners, the University Act and Statutes do not contain any provision whereby an employee can be automatically suspended on a registration of a criminal case. They would submit that only if disciplinary proceedings are contemplated an employee can be suspended and that too only by the Manager and not by the Government. The Government can require the Manager to take a disciplinary proceedings against an employee only if the Manager fails to take disciplinary proceedings as contemplated under the University Act and Statutes is the contention of the petitioners. The petitioners submit that since Ext.P3 categorically directs the 2nd respondent to suspend the petitioners, the same is patently without jurisdiction and liable to be quashed.

2. I have considered the contentions in detail. It is not in dispute before me that a criminal case has been registered against the petitioners on very serious charges of criminal breach of trust, forgery of valuable security, falsification of records and misappropriation of Government money. Ext.P3 can be considered only as a letter conveying the information to the manager that such a criminal case has been registered against the petitioners, although there is a request therein to suspend the petitioners. I am of opinion that in such circumstances Ext.P3 need not be interfered with in exercise of my discretionary jurisdiction under Article 226 of the Constitution of India. It is for the Manger to consider the matter independently and take a decision, of course without prejudice to the right of the Government to take appropriate action, if the Manager does not take appropriate action as contemplated by law if such action is warranted in the facts of the case.

The writ petition is accordingly disposed of.

S. SIRI JAGAN, JUDGE

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